

**Minutes
of the
Stormwater Management Committee (SWMC)
September 4, 2014

8:00 AM
1600 Second Avenue North
Metro Water Services Administration Building, 2nd Floor Conference Room**

STORMWATER MANAGEMENT COMMITTEE

(Quorum Required: Four Members)

Committee Members Present:

Ms. Elaine Bright – Vice Chairman
Mr. Roy Dale, P.E. – Chairman
Mr. Dodd Galbreath
Ms. Anna Maddox, P.E.
Mr. Slade Sevier, P.E.
Mr. Monte Turner
Mr. Lance Wagner, P.E.

Committee Members Absent:

None

I. CALL TO ORDER

The meeting was called to order at 8:13 a.m.

II. APPROVAL OF AUGUST 7, 2014 MEETING MINUTES AND DECISION LETTERS

Mr. Slade Sevier moved and Mr. Dodd Galbreath seconded the motion to approve the August 7, 2014 meeting minutes and decision letters. Ms. Elaine Bright, Mr. Roy Dale, Mr. Galbreath, Ms. Anna Maddox, Mr. Sevier, Mr. Monte Turner, and Mr. Lance Wagner voted in favor of the motion.

III. STORMWATER MANAGEMENT COMMITTEE AGENDA

Comments were solicited from the Planning and Codes Departments for the following Agenda items.

1. 201400017
307, 307B, & 309 54th Avenue North
(Single Family Residential)
Map 91-14, Parcel 229 and Map 91-15, Parcels 12 & 13
Inspector: Phil Saad

CD-24 (Jason Holleman)

APPLICANT'S REQUEST: Variance requests are to allow the following:

- 1) Disturbance and encroachment of the 25' Zone 2 floodway buffer of Richland Creek for construction of a portion of a single family residence and wooden deck, landscaping, and buffer restoration (in the Zone 1).
- 2) Continuous mowing and maintenance of the buffer.
- 3) Placement of stormwater Best Management Practice (BMP) in the buffer.

APPELLANT: Mr. Steve Regal/Regal Homes

REPRESENTATIVE: Mr. Michael Garrigan

COMMENTS:

SW Staff:

- 1) Staff is concerned with the location of the bioretention area with respect to the seasonal high water table. The Applicant has responded that they tried to locate the bioretention at a point that was several feet higher than the 100-year elevation and they do not feel that it will be of any issue.
- 2) Staff requests that if the variance is granted, the request for continuous mowing and maintenance of the buffer for Parcels 229 and 12 (307B and 309 54th Ave. N.) be extended to the beginning of the new 25' Zone 2 buffer to be established once the 2012 Preliminary Study is approved, for sustainability of the lot and consistency of the standard in the area. The Applicant has responded that they do agree it should be expanded but not sure as to the full extent described by Staff. As the current floodway line is still in place, they think it would be prudent to extend the boundaries of common lawn maintenance to the existing floodway line, not necessarily all the way to the future Zone 2 line.

CODES: No comment provided.

PLANNING: Defer to Stormwater Staff.

GREENWAYS: The Greenways Division recommends this request only be considered for approval with the condition that a conservation greenway easement along the creek is granted as mitigation.

Mr. Roy Dale recused himself from the case stating that he is involved with the project.

Mr. Michael Garrigan gave an overview of the project and variance requests.

The following individuals submitted emailed public comments stating opposition which were read into the record by the Secretary:

1. Ms. Lori Cloud, 4006 Nebraska Ave. – given the lack of storm drains in Sylvan Park, it would be a further detriment to current homeowners that have enough water passing onto their property during heavy rains. Developers are overbuilding on these lots and have caused more stormwater issues. Current homeowners have seen property taxes skyrocket but infrastructure lag behind.
2. Mr. Nick Bailey, 4700 Elkins Ave. – he could not imagine the proposal even being considered, given the fact that the home would be in a floodway buffer.
3. Ms. Jennifer Heerman, 4310 Nebraska Ave. – Richland Creek and the surrounding green space are beautiful assets that should be protected, as well as the surrounding properties. Development of the floodway and buffer will only increase flooding risk to the new properties as well as properties already along the buffer. The demand for housing should not trump the need for foresight and planning.
4. Mrs. Spring Miller and husband, Mr. Edwin Rodriguez, 313 54th Ave. N. – such construction will place neighboring homes and property at greater flood risk in the future and jeopardize the security of their homes and families. Many property owners on the west side of 54th Ave. N. have tracts of land that abut Richland Creek that are undevelopable because they are in the floodplain.
5. Mr. Roe Rogers, 309 50th Ave. N. – any construction in the buffer would eventually be damaged by floods, and reducing the buffer could put others in the neighborhood and upstream at risk by reducing this flood 'relief valve.'
6. Mrs. Pat and Mr. Wade Daniel, 311 54th Ave. N. – because of the undue hardship put on neighbors caused by the excess water runoff from the development in the floodplain.

7. Mrs. Paige and Mr. Garrett Vaughan, 315 54th Ave. N. – homes should not be built on the floodplain and put current and future homes at risk for flooding. It will open the door for future developers to do the same and cause further damage, not only to Richland Creek, but to their homes. The property owner has no concern for what is in the best interest of the current residents of 54th Ave.
8. Mr. Steven Cuneo, 215 54th Ave. N. – 1) it is a case of less thoughtful development and pays no heed to the protection of Richland Creek, a vital asset to Nashville, 2) the property owner has been observed by the neighborhood to be willing to circumvent regulations to suit his interests, and 3) the property owner's intentions for the lots is not in keeping with the majority of Sylvan Park homes and represent a threat of a potential domino effect of excessively dense development in the name of profit.

The following individuals were in attendance and spoke in opposition:

1. Ms. Monette Rebecca, 320 54th Ave. N. and President of the Richland Creek Watershed Association (RCWA), stated that maintaining buffers is imperative for protecting the integrity and sustainability of the resource and for flood protection: a) approval of a variance would set a precedent encouraging more requests to be filed for developing the buffer, b) approval would be an unwarranted risk – increase the risk of flooding properties not flooded before and promote the need for destructive tradeoffs later, c) unbuildable is not a justifiable explanation of the request – the variance need would disappear if the proposal for a third house is eliminated, and d) RCWA welcomes planting vegetation but not as a stopgap measure to mitigate a planned and preventable buffer disturbance, and e) the buffer needs to be protected permanently if the intent is to not increase flood risk and save this resource.
2. Mr. Bernard Pickney, 4604 Dakota Ave., referenced the deaths and rescues during the May 2010 flood. The neighborhood has seen the results of building in areas that increase flooding, putting future residents in danger. He requested that the Committee do what is best for the neighborhood and city for the long term. There is nothing unique about the property – many thousands of others border flood zone buffers.
3. Ms. Susan Rodgers, 5311 Elkins Ave., presented facts and figures regarding the project's hardship (purchase price of the lots, demo cost, estimated builder cost based on approximate square footage, and potential builder profit), stating that the owner could still make a profit with construction of two homes instead of three proposed.
4. Mr. Jim May, 233 54th Ave. N., submitted copies of previous alternative plans by the property owner and commented on a previous neighborhood meeting. There seem to be discrepancies in the square footage areas between the hardship stated in an original appeal in September 2013 and the hardship in the current variance application. He found it odd that on the street side of the properties, MWS is about to start a multi-million dollar project to address Stormwater issues; while on the back side, the owner is asking for a buffer disturbance. Mr. Regal could wait until the new FEMA maps are adopted and legally build, or redesign the house and build something compatible to the existing neighborhood without a variance. There is no need to set a precedence of creating more variances in the buffer.
5. Mr. Steve Swartz, 237 54th Ave. N., had submitted comments by email but gave a brief visual presentation and discussed the May 2010 flood and the extreme flood risk created by the landfill along Charlotte Ave. which has constructed a choke point in the Richland Creek floodway at 54th Ave. N. No construction should be considered for the floodway or buffer and every effort should be made to restore the floodway to its original state at 54th and Charlotte.

Mr. Steve Regal, property owner, stated that the profit numbers stated earlier were inaccurate. Regardless if the variance is approved or denied, he still plans to build on the back lot, but it will not be in context with the rest of the neighborhood - it will be a small 800 square foot house.

Mr. Michael Garrigan stated that all three parcels are legally platted, buildable lots. The floodway will be in a different location, and this is an opportunity for improvement. The plantings will create a buffer, and this will also start an easement for the greenway.

Ms. Mekayle Houghton, 4412 Utah Ave., stated that the area looks similar to Wimpole Drive. Deep lots in a floodplain are assets and help the city to be more climate resilient. It is easier to preserve spaces that are open now.

There was discussion regarding the development/creation of the lots, the FEMA maps and floodways (both current and 2012 Preliminary), and new infill development.

Mr. Dodd Galbreath stated that he did not see functional exchanges or benefits. The rain gardens are not a significant function in the floodplain. In urban areas, he has promoted higher density in the interior portions of Nashville to offset sprawl in the exterior portions. This is highly important environment that needs to be protected and restored to its original function so that impacts are mitigated rather than exacerbated. There was not a good empirical case for hardship or the exchanges of environmental benefits of the developed area versus the natural areas. There was further discussion regarding detention, zoning, hardship, the proposed site layout.

Mr. Galbreath made a motion to deny. Mr. Wagner seconded the motion. Ms. Elaine Bright, Mr. Galbreath, and Mr. Wagner voted for the motion. Ms. Anna Maddox, Mr. Monte Turner, and Mr. Sevier voted against the motion. The motion failed. Mr. Galbreath asked if there was interest in possibly deferring the case for 60 days to allow the applicant to return with a better proposal (address the layout of the housing, get input from other Metro departments that might give more flexibility, etc.). There was additional discussion on the pros and cons of a deferral. Mr. Sevier moved and Ms. Maddox seconded the motion to approve the request as presented. Ms. Maddox, Mr. Sevier, and Mr. Turner voted for the motion. Ms. Bright, Mr. Galbreath, and Mr. Wagner voted against the motion. There was no majority vote approving the variance, and the motion failed.

2. 201400018

Nashville Zoo – Andean Bear Exhibit
3777 Nolensville Pike
APN: 13300000400
Inspector: Denice Johns

CD-26 (Chris Harmon)

APPLICANT'S REQUEST: Variance requests are to allow the following:

1) Disturbance and encroachment of the 50' stream buffer of Cathy Jo Creek (30' Zone 1 & 20' Zone 2) for construction of portions of a new bear exhibit, associated grading, the reconstruction of an existing walking path, portions of two buildings, retaining walls, and installation of erosion prevention and sediment control (EPSC) measures.

2) Placement of stormwater Best Management Practices (BMPs) in the buffer.

APPELLANT: Nashville Zoo (Mr. Rick Schwartz)

REPRESENTATIVE: Mr. Kevin Gangaware

COMMENTS:

SW Staff:

1) The mitigation proposed (additional plantings) is sufficient for the buffer disturbance as shown on the Plan of Record. In addition, the Applicant is proposing to use existing trails versus all entirely new trails and replace the existing asphalt path within the buffer with permeable pavers.

2) If the variance is granted, Staff requests that a variance condition be included that the Applicant coordinate final review and approval of the location and verbiage of educational signage with Stormwater - NPDES Staff.

CODES: No comment provided.

PLANNING: Defer to Stormwater Staff.

GREENWAYS: Greenways will defer to Stormwater staff comments on this request.

Mr. Kevin Gangaware gave an overview of the existing site, proposed project, and variance requests. He also stated that they had recently considered another alternative and would now prefer constructing a raised boardwalk which would be less intrusive than pervious pavers. The existing asphalt would still be removed.

Mr. Rick Schwartz gave an overview of Zoo projects (recent, upcoming, and proposed). Ms. Elaine Bright asked why not turn the building to move it out of the buffer. Mr. Gangaware and Mr. Schwartz replied that the stream was one constraint, along with the required layout of the series of buildings (village). If the building was pushed further eastward, additional grading would be required for the walkway. There was concern that the large bears on the

steeper slopes would denude the vegetation and cause erosion issues going into the moat. There was additional discussion about the bamboo. Even though it is an invasive, it does serve as an excellent renewable resource for the Zoo.

Mr. Galbreath stated that he liked the idea of the raised boardwalk. It would be a mitigating factor for some of the intrusion on the buffer and an improvement of the functionality of the site, ecologically speaking. Mr. Slade Sevier made a motion to approve with the following Conditions #1-2 and standard Conditions #3-4. Mr. Lance Wagner seconded the motion. Ms. Elaine Bright, Mr. Roy Dale, Mr. Galbreath, Ms. Anna Maddox, Mr. Sevier, Mr. Monte Turner, and Mr. Wagner voted in favor of the motion.

1. There shall be a raised boardwalk in the location of the current walk.
2. The Appellant shall coordinate final review and approval of the location and verbiage of the educational signage with Stormwater – NPDES Staff.
3. The Appellant shall have the landscaper who installs the required mitigation plantings to certify to MWS Stormwater – NPDES Office, in writing (referencing Variance #201400018), once plantings are installed per approved variance plans and again once plantings have been found to meet a two full growing season requirement. The owner shall maintain a minimum of 75 percent survivability of plantings through two full growing seasons.
4. This variance will expire on September 4, 2015. However, if a Grading Permit, Stormwater Single Family Permit, or Building Permit is issued within that period, the variance expiration date will run concurrent with that permit expiration date.

IV. ITEMS OF BUSINESS

1. The Committee discussed proposed modifications to the current list of standard variance conditions. The Secretary will draft a revised list for review and approval at the next meeting.

V. ADJOURNMENT

The meeting was adjourned at 10:17 a.m.

Metropolitan Stormwater Management Committee

Approved:

By: _____
Secretary

Date: _____